



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

MEH:ddj
Docket No: 3305-00
18 July 2000

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your deceased spouse's naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 18 July 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your spouse's naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by BUPERS memorandum of 8 June 2000, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

8 Jun 00

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: Assistant for BCNR Matters (PERS-OOZCB)

Subj: COMMENTS AND RECOMMENDATION IGO CDR BILLY G
[REDACTED]

Ref: (a) BCNR Memo of 5 Jun 00
(b) DOD Financial Management Regulation (Vol 7B)

Encl: (1) NRPC ltr 416/LAP/lr 461-36-2511/3109 dtd 21 Feb 89

1. Per reference (a), recommend BCNR not correct CDR Montgomery's record to reflect that he enrolled in the Reserve Component - Survivor Benefit Plan (RC-SBP) prior to transferring to the Reserve Retired List (without pay).

2. The recommendation is based on the following:

a. CDR Montgomery transferred to the Reserve Retired List (without pay) on 1 June 1973. He died on 1 January 1989.

b. Per reference (b), any retired reservist who met the service requirement, but not the age, before 30 September 1978, had through 31 March 1980 to elect the Reserve Component-Survivor Benefit Plan (RC-SBP) or to decline RC-SBP. A member who declined RC-SBP election retained eligibility to participate in the SBP at age 60.

c. Per enclosure (1), a RC-SBP enrollment packets were mailed to CDR Montgomery at 7315 Azalea Lane Dallas, TX 75211 on 4 July 1979, and to 34 West Broad Oaks Place, Houston, TX 77056 on 29 November 1979. When no reply was received, a letter dated 1 December 1980, was forwarded to the spouse of CDR Montgomery at 34 West Broad Oaks Place, Houston, TX 77056 informing the spouse of CDR Montgomery election not to participate in RC-SBP. The letter further advised that if CDR Montgomery died prior to age 60, there would be no RC-SBP benefits payable from the Department of the Navy.

M. P. Wardlaw

M. P. WARDLAW
Head, Navy Retired Activities
Branch (PERS-622)